EFFECTIVE TAX RATES

§ 19.245 Tax credits under 26 U.S.C. 5010.

(a) *The distilled spirits tax*. Sections 5001 and 7652 of the IRC impose a tax on all distilled spirits produced in, or imported into, or brought into the United States at the rate prescribed in section 5001 of the IRC.

(b) *Tax credits*. Section 5010 of the IRC provides a credit for the wine and flavors content in distilled spirits products. These credits effectively reduce the rate of excise tax paid on distilled spirits products that contain eligible wines and eligible flavors. As a result, the alcohol derived from eligible wine is taxed at the rates specified for wine in 26 U.S.C. 5041, and the alcohol derived from eligible flavors is not taxed to the extent that it does not exceed 2.5 percent of the alcohol in the product. This results in an effective tax rate on the distilled spirits product that is lower than the rate prescribed in 26 U.S.C. 5001.

(c) *Eligible wine and eligible flavor*. The credit for the wine and flavor content of a distilled spirits product is allowable only if the wine or flavor contained in the product is an "eligible wine" or an "eligible flavor". To determine whether a wine or flavor is eligible, refer to the definitions in § 19.1 and 26 U.S.C. 5010.

(d) *Application of effective tax rates*. Section 19.246 describes how the proprietor should compute the effective tax rate for each distilled spirits product containing eligible wine or eligible flavor. Sections 19.247 through 19.250 set forth several different methods that the proprietor may use in applying the effective tax rates to taxable removals of products from the proprietor's bonded premises.

(26 U.S.C. 5010)

§ 19.246 Computing the effective tax rate for a product.

(a) *How to compute effective tax rates*. In order to determine the effective tax rate for a distilled spirits product containing eligible wine or eligible flavor, the proprietor must first determine the total excise taxes due on the product from all sources including distilled spirits, eligible wine, and alcohol from eligible flavors in excess of 2.5 percent of the total proof gallons in the product. Then, the proprietor must determine the total number of proof gallons of alcohol in the product regardless of the source. By dividing the total tax (numerator) by the total number of proof gallons (denominator) the proprietor will arrive at the effective tax rate for the product in dollars per proof gallon. The proprietor will compute the effective tax rate according to the following formula:

(1) *Numerator*. The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product (exclusive of distilled spirits derived from eligible flavors), multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5041(b)(1), (2), or (3), that would be imposed on the wine but for its removal to bonded premises. Three different tax classes of wine are eligible for the tax credit. The proprietor will have to repeat this step for each different tax class of eligible wine used; and

(iii) The proof gallons of all distilled spirits derived from eligible flavors used in the product, multiplied by the tax rate prescribed by 26 U.S.C. 5001, but only to the extent that such distilled spirits exceed 2.5 percent of the denominator prescribed in paragraph (a)(2) of this section.

(2) *Denominator*. The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product, including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product, multiplied by twice the percentage of alcohol by volume of each, divided by 100.

(b) *Rounding numbers*—(1) *Proof gallons*. When determining the effective tax rate, the proprietor must express quantities of distilled spirits, eligible wine, and eligible flavors to the nearest tenth of a proof gallon.

(2) *Tax rates*. The proprietor may round the effective tax rate to as many decimal places as the proprietor deems appropriate, provided that the rate is expressed no less exactly than the rate